

Present law authorizes a state income tax credit for investments in state-certified productions and state-certified musical recording infrastructure projects. Provides that the credit is available until January 1, 2010. Proposed law would have changed the credit to a "sound recording" credit and removes the January 1, 2010 termination date.

Present law prohibits a sound recording production company from earning a sound recording investor tax credit in more than three years out of a five year period. Provides that the tax credit for productions and infrastructure projects certified prior to July 1, 2007 equal the following amounts:

- (1) Ten percent of the base investment made by the investor, if the total base investment is greater than \$15,000 but less than or equal to \$150,000.
- (2) Fifteen percent of the base investment made by the investor, if the total base investment is greater than \$150,000 but less than or equal to \$1,000,000.
- (3) Twenty percent of the base investment made by the investor, if the total base investment is greater than \$1,000,000.

Proposed law would have deleted these provisions.

Present law provides that the credit for production and infrastructure projects certified on and after July 1, 2007 equal 25% of the "base investment" made by the investor. Proposed law would have retained these provisions but limits the credit for infrastructure projects to those which have been have been applied for on or before August 1, 2009.

Proposed law would have re-defined "base investment" upon which the credit is based to mean investments made and "expended in the state" and specifies that the costs eligible for infrastructure projects are "capital costs." Would have changed the definition of "expended in the state" to specify that an expenditure for tangible property must be acquired from a source within the state which is subject to state sales tax and an expenditure for services performed in the state must be subject to state income tax.

Present law requires the secretary of the Department of Economic Development (DED) to promulgate rules for determining who qualifies for the tax credit and that such rules sales be approved "prior to adoption" by the House Committee on Ways and Means and the Senate Committee on Revenue and Fiscal Affairs.

Proposed law would have retained present law but removes the requirement for approval "prior to adoption" and specifies that the approval of the rules by the legislative committees shall be in accordance with the Administrative Procedure Act.

Proposed law would have deleted provisions that the credit be allowed against the individual or corporate income tax for the taxable period in which the credit is earned. Would have deleted provisions that any excess of the credit over the income tax liability constitutes an overpayment and that a refund be made of this overpayment to the investor claiming the credit.

Proposed law would have required that after final certification, DED submit the tax credit certification letter to the Department of Revenue (DOR) on behalf of the investor who earned the tax credits. Requires that upon receipt of the tax credit certification letter, DOR is to make payments to the investor in the amount to which he is entitled from the current collections of the taxes collected pursuant to present law. Would have authorized the secretary of DOR to require additional information from the investor prior to making payment.

Present law provides that if the Louisiana Music Commission and the DED determine that funds for which an investor has received tax credits are not being invested in and expended with respect to a certified production within 24 months from the date the credits are earned, then requires that the investor's state income tax for the taxable period be increased in an amount necessary to recapture the amount of the credit. Proposed law would have retained

these provisions but removed the Louisiana Music Commission from the process involving recapture of the credit.

Proposed law would have required that as a condition for receiving certification of tax credits, state-certified productions may be required to display the state brand or logo, or both, as prescribed by DED.

Would have become effective upon signature by the governor or upon lapse of time for gubernatorial action.

(Would have amended R.S. 47:6023)

VETO MESSAGE: "Senate Bill No. 123 by Senator Michot extends the sound recording production and infrastructure tax credit program. This bill essentially duplicates House Bill No. 458 by Representative Talbot.

For this reason, I have vetoed Senate Bill No. 123 and hereby return it to the Senate."